

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Magdalena Azmitia	Team: Squad #3	CCRB Case #: 201900789	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 01/25/2019 6:45 PM	Location of Incident: [REDACTED]	Precinct: 40	18 Mo. SOL 7/25/2020	EO SOL 3/11/2021	
Date/Time CV Reported Mon, 01/28/2019 9:27 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 01/28/2019 9:27 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Resembric Altamar	30723	934386	PBBX
2. POM John Cerar	20715	945162	PBBX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Michael Cohn	02237	932476	PBBX

Officer(s)	Allegation	Investigator Recommendation
A.POM Resembric Altamar	Abuse: At § 87(2)(b) [REDACTED] in the Bronx, Police Officer Resembric Altamar threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]
B.POM Resembric Altamar	Abuse: At § 87(2)(b) [REDACTED] in the Bronx, Police Officer Resembric Altamar threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]
C.POM John Cerar	Abuse: At § 87(2)(b) [REDACTED] in the Bronx, Police Officer John Cerar threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]
D.POM John Cerar	Abuse: At § 87(2)(b) [REDACTED] in the Bronx, Police Officer John Cerar threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]
E.POM Resembric Altamar	Discourtesy: At § 87(2)(b) [REDACTED] in the Bronx, Police Officer Resembric Altamar spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
F.POM Resembric Altamar	Force: At § 87(2)(b) [REDACTED] in the Bronx, Police Officer Resembric Altamar used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
G.POM Resembric Altamar	Discourtesy: At the Yankee Stadium stationhouse, Police Officer Resembric Altamar spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]

## Case Summary

On January 28, 2019, § 87(2)(b) filed this complaint over the phone with the CCRB.

On January 25, 2019, at approximately 6:45 PM, § 87(2)(b) was waiting for a bus at § 87(2)(b) in the Bronx when he was approached by his child's mother § 87(2)(b) and her boyfriend § 87(2)(b) began arguing with § 87(2)(b) before instigating a physical altercation. PO Resembric Altamar and PO John Cerar of Patrol Borough Bronx were in a marked vehicle at the corner on § 87(2)(b) and allegedly approached § 87(2)(b) and § 87(2)(b) with their tasers out and pointed at both of them (**Allegations A and B, Abuse of Authority: § 87(2)(g); Allegations C and D, Abuse of Authority: § 87(2)(g)**). § 87(2)(b) approached the officers and explained that § 87(2)(b) was the aggressor, to which PO Altamar allegedly stated, "Get the fuck out" (**Allegation E, Discourtesy: § 87(2)(g)**). § 87(2)(b) and § 87(2)(b) dispersed but § 87(2)(b) returned within minutes and began arguing with § 87(2)(b) again. PO Altamar and PO Cerar approached again, and PO Altamar allegedly stated, "I told you to go, now you're both getting fucking arrested." § 87(2)(b) and § 87(2)(b) were arrested, and in the process of handcuffing § 87(2)(b) PO Altamar allegedly repeatedly pushed him against a wall (**Allegation F, Force: § 87(2)(g)**). § 87(2)(b) and § 87(2)(b) were transported to the stationhouse located inside Yankee Stadium, where PO Altamar allegedly told another officer, "He didn't get the fuck out when I told him to, so I arrested his ass" (**Allegation G, Discourtesy: § 87(2)(g)**).

## Findings and Recommendations

**Allegation (A) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Resembric Altamar threatened § 87(2)(b) with the use of force.**  
**Allegation (B) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Resembric Altamar threatened § 87(2)(b) with the use of force.**  
**Allegation (C) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer John Cerar threatened § 87(2)(b) with the use of force.**  
**Allegation (D) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer John Cerar threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) testified to the CCRB that he had been at the bus stop for approximately six to ten minutes when § 87(2)(b) first approached him [BR 03]. The marked police vehicle had been parked at the corner on § 87(2)(b) since before § 87(2)(b)'s arrival at the bus stop. PO Altamar and PO Cerar approached, and both had their tasers out and pointed at § 87(2)(b) and § 87(2)(b).

In a telephone statement to the CCRB, § 87(2)(b) stated that he and § 87(2)(b) had been arguing about § 87(2)(b) harassing him and § 87(2)(b) and the argument escalated into a physical fight [BR 05]. PO Altamar and PO Cerar stepped in and told them to stop fighting or they would be arrested, but neither of the officers took out their tasers at any point in the incident. The CCRB attempted to interview § 87(2)(b) who was uncooperative.

In her telephone statement to the CCRB, § 87(2)(b) stated that when § 87(2)(b) and § 87(2)(b) began fighting, she approached PO Altamar and PO Cerar in their vehicle and

asked them for help [BR 04]. PO Altamar and PO Cerar approached, but only PO Altamar took out his taser. Both officers told § 87(2)(b) and § 87(2)(b) to stop, and they complied. The CCRB attempted to interview § 87(2)(b) who was uncooperative.

PO Altamar testified to the CCRB that he and PO Cerar were posted at the location because of robberies in the area [BR 06]. While in their vehicle, PO Altamar heard § 87(2)(b) and § 87(2)(b) arguing on the corner near the crosswalk before they began physically fighting. PO Altamar and PO Cerar exited their vehicle and approached them. PO Altamar did not see whether § 87(2)(b) and § 87(2)(b) had any weapons, as one of them had their back to PO Altamar and obstructed his view of their hands. PO Altamar took out his taser as he approached them because he did not know if they had weapons but did not point it at either § 87(2)(b) or § 87(2)(b). PO Altamar returned the taser to his holster as he approached them and saw that they did not have weapons in their hands. PO Cerar did not draw a taser as he approached.

§ 87(2)(g)

PO Cerar did not see who started the fight but noted that he could see they did not have weapons and there was no reason to believe that they had weapons. It was dark outside, but the area was lit by street lights. § 87(2)(b) and § 87(2)(b) punched each other, and § 87(2)(b) pushed § 87(2)(b) against the wall of the nearby building. PO Cerar and PO Altamar exited their vehicle and issued several verbal commands for § 87(2)(b) and § 87(2)(b) to stop fighting, but they did not comply or react in any way. PO Altamar took out his taser, pointed it towards § 87(2)(b) and § 87(2)(b) and commanded them again to stop fighting, after which they complied. The taser was never deployed and was immediately holstered. PO Cerar was not equipped with a taser on that day.

The roll call from the Bronx Patrol Borough Yankee Stadium detail notes which officers were assigned tasers during each tour [NYPD 01]. On the incident date, PO Altamar was assigned a taser but PO Cerar was not.

NYPD TARU footage from a nearby camera does not capture the incident but demonstrates that there was heavy foot traffic at the time of the incident [BR 15].

NYPD Patrol Guide procedure 221-08 outlines the proper use of a taser, which may be used to subdue aggressive suspects and is classified as a significant intermediate use of force [BR 09]. A taser should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other persons present.

§ 87(2)(g)

§ 87(2)(g)

**Allegation (E) Discourtesy: At § 87(2)(b) in the Bronx, Police Officer Resemblic Altamar spoke discourteously to § 87(2)(b)**

**Allegation (F) Force: At § 87(2)(b) in the Bronx, Police Officer Resembric Altamar used physical force against § 87(2)(b)**

§ 87(2)(b) testified to the CCRB that after he and § 87(2)(b) ceased fighting, he approached PO Altamar and PO Cerar and attempted to explain that § 87(2)(b) was the aggressor while § 87(2)(b) was defending himself [BR 03]. PO Altamar did not listen to § 87(2)(b) and instead told him to “get the fuck out.” § 87(2)(b) returned to his bus stop while § 87(2)(b) left the area. When § 87(2)(b) returned and began arguing with § 87(2)(b) PO Cerar and PO Altamar approached again. PO Altamar told § 87(2)(b) “I told you to go, now you’re both getting fucking arrested.” § 87(2)(b) again attempted to explain that he was not the aggressor and that he was waiting for his bus, but PO Altamar told him to turn around and § 87(2)(b) complied. PO Altamar guided § 87(2)(b) until his front was against the nearest wall but continued to push § 87(2)(b) further against the wall.

§ 87(2)(b) was later informed by § 87(2)(b) that PO Altamar had pushed her when she approached the officers to ask for help. A force allegation is not being pleaded for § 87(2)(b) who said in her phone statement that when § 87(2)(b) and § 87(2)(b) began arguing the second time, PO Altamar had pushed her away, but it was not a hard push. § 87(2)(b) described the action as a guiding motion moving her away from the altercation, noting that she did not stumble.

§ 87(2)(b) stated over the phone that during his arrest, § 87(2)(b) complained that PO Altamar was hurting him and resisted being handcuffed [BR 04]. § 87(2)(b) did not specify what § 87(2)(b) was physically doing. § 87(2)(b) complained about his handcuffs being too tight and was held against a wall, where he repeatedly moved away from the wall and attempted to turn around to face PO Altamar. § 87(2)(b) did not hear either of the officers use profanity.

§ 87(2)(g) § 87(2)(b) argued with the officers and asked why he was being arrested. § 87(2)(b) did not recall whether § 87(2)(b) struggled physically. § 87(2)(b) was placed against a wall but was not pushed or shoved. § 87(2)(b) did not hear officers use profanity at any point.

PO Altamar testified to the CCRB that the first time they approached, he and PO Cerar separated § 87(2)(b) and § 87(2)(b) and told them to leave [BR 06]. PO Altamar pushed § 87(2)(b) and § 87(2)(b) away from each other with each of his hands. PO Altamar told them they would be arrested if they did not cease fighting and leave the location. PO Altamar did not tell § 87(2)(b) and § 87(2)(b) to “get the fuck out” and did not use any other profanity while addressing them. § 87(2)(b) stayed nearby to wait for a bus while § 87(2)(b) began looking for objects that had fallen out of his pockets and both continued to yell at each other. During that time, PO Altamar and PO Cerar had returned to their vehicle. § 87(2)(b) and § 87(2)(b) began physically fighting again within minutes, and PO Altamar and PO Cerar approached them again to arrest them for disorderly conduct. PO Altamar placed § 87(2)(b) in handcuffs while PO Cerar handcuffed § 87(2)(b) twisted his body and pulled his arms away and did not allow PO Altamar to place handcuffs on him. PO Altamar put § 87(2)(b) against a wall on his front and told him not to resist and that he would only be issued a summons. § 87(2)(b) then complied but stated that PO Altamar was going to be in trouble because § 87(2)(b) had a family member who was a lieutenant. PO Altamar did not tell § 87(2)(b) and § 87(2)(b) “I told you to go, now you’re both getting fucking arrested,” and did not use any

other profanity when speaking to them. He did not push § 87(2)(b) against the wall multiple times.

PO Cerar's testimony was consistent with that of PO Altamar with the following exceptions [BR 07]. After the first altercation, § 87(2)(b) and § 87(2)(b) dispersed, but both returned to the location within minutes and began arguing again. Before the argument escalated into another physical altercation, PO Cerar and PO Altamar decided to arrest them both for disorderly conduct. PO Cerar did not hear PO Altamar tell § 87(2)(b) or § 87(2)(b) "I told you to go, now you're both getting fucking arrested," or use any profanity when separating them the second time. There was no physical difficulty in handcuffing either § 87(2)(b) or § 87(2)(b). § 87(2)(b) continued to talk as he was being handcuffed, making the statement about his uncle, who was a lieutenant. PO Cerar did not recall whether § 87(2)(b) struggled physically against being handcuffed, nor did he recall whether he was pushed against a wall during his arrest. PO Cerar did not see PO Altamar push § 87(2)(b) against a wall at any point and did not recall whether any force was used to handcuff § 87(2)(b).

§ 87(2)(g)

**Allegation (G) Discourtesy: At the Yankee Stadium stationhouse, Police Officer Resemblic Altamar spoke discourteously to § 87(2)(b)**

§ 87(2)(b) testified to the CCRB that after being arrested, he and § 87(2)(b) were transported to the stationhouse inside Yankee Stadium [BR 03]. § 87(2)(b) was placed in a holding cell while § 87(2)(b) was handcuffed to a wall nearby. § 87(2)(b) heard PO Altamar telling other officers, "He didn't get the fuck out when I told him to, so I arrested his ass." § 87(2)(b) later stated that he did not recall what PO Altamar's exact wording was but noted that profanity was used. § 87(2)(b) and § 87(2)(b) were ultimately released, and § 87(2)(b) was given a desk appearance ticket for disorderly conduct and violent behavior.

§ 87(2)(b) stated over the phone that he did not hear the officers talking at the stationhouse and that he did not hear officers use profanity at any point [BR 05].

PO Altamar testified to the CCRB that, at the stationhouse, he explained to § 87(2)(b) and § 87(2)(b) that they did not have any warrants and would be released after their summonses were issued [BR 06]. Also present was PO Altamar's supervisor Sgt. Michael Cohn of Patrol Borough Bronx. PO Altamar did not tell other officers, "He didn't get the fuck out when I told him to, so I arrested his ass," or use any other profanity while at the stationhouse.

PO Cerar's testimony was consistent with that of PO Altamar with the following exceptions [BR 07]. While § 87(2)(b) was being transported, he continued to say that his uncle was a lieutenant and that the fact that he was being arrested was "bullshit," although he had calmed down by the time they reached the stationhouse. PO Cerar did not hear PO Altamar tell other officers, "He didn't get the fuck out when I told him to, so I arrested his ass," referring to § 87(2)(b) or use any other profanity. PO Cerar was not with PO Altamar the entire time they were at the stationhouse.

§ 87(2)(g)

§ 87(2)(b) Sgt. Cohn was doing administrative work at the stationhouse when he had been made aware of the arrest by a radio transmission and approved the arrest via telephone with PO Altamar. When § 87(2)(b) and § 87(2)(b) were brought to the stationhouse, § 87(2)(b) was upset and asked why he was being arrested and continued to yell in the holding cell. Sgt. Cohn did not recall whether any officers responded to § 87(2)(b)'s statements. Sgt. Cohn spoke to § 87(2)(b) to try to calm him down but was not aware of whether any other officers spoke to him. Sgt. Cohn believed that § 87(2)(b) may have been using profanity at the time but did not recall any specific statements. Sgt. Cohn and PO Altamar discussed the incident that led to the arrests, but they were not within earshot of the holding cell area. Sgt. Cohn did not recall hearing PO Altamar say, "He didn't get the fuck out when I told him to, so I arrested his ass." Sgt. Cohn did not recall whether PO Altamar used any profanity when describing the incident.

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

#### **Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(b) and § 87(2)(b) have been parties [BR 10,11].
- PO Altamar has been a member of service for 14 years and has been a subject of eight CCRB complaints with 21 allegations, one of which was substantiated.
  - Case #200900237 involved a substantiated allegation of a stop. The Board recommended instruction, which was implemented by the NYPD.
- PO Cerar has been a member of service for 11 years and this is the first CCRB complaint to which he has been a party.

#### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- On June 3, 2019, a request to determine if a Notice of Claim was filed was submitted; confirmation from the Office of the New York City Comptroller will be forwarded upon receipt [BR 12].
- § 87(2)(b)
- According to the Office of Court Administration (OCA), § 87(2)(b) has no criminal convictions in New York [BR 14].

---

Squad No.: 3

Investigator: \_\_\_\_\_

	Signature	Print Title & Name	Date
Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date